



SECTION 504 MANUAL

A comprehensive manual for Tennessee
educators on Section 504 of the
Rehabilitation Act of 1973

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TENNESSEE DEPARTMENT OF EDUCATION

Division of Special Education

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Acknowledgment

The purpose of this manual is to develop a guide for local education agencies so that they may be aware of their obligations under Section 504 of the Rehabilitation Act of 1973 and Title II of the American Disabilities Act of 1990 (ADA). The manual shall serve to give guidance to the local Section 504 Coordinators, ADA Coordinators, and staff and other agencies serving children with disabilities to the on-going functions of Section 504 and Title II.

The sincere hope is that the efforts of the authors of this manual will take some of the mystery out of Section 504, and that LEAs will more fully understand their responsibilities. This manual is the result of the work of special education administrators, 504 coordinators, superintendents, Department of Education staff and other experts to give guidance to local school districts as they develop their own policies which are required of a board of education by federal laws. The specific requirements of this manual are mandated by Section 504 and not necessarily the Tennessee Department of Education.

The original manual was reviewed by the U. S. Department of Education, Office for Civil Rights, Atlanta, Georgia for content. The Office for Civil Rights does not make it a practice of endorsing such manuals. However, the compilers of the manual would like to thank them for their technical assistance in this project.

Please be advised that this manual is only to advise and assist and is not produced as a mandated set of policies of the Tennessee Department of Education. However, Section 504 and Title II are not optional, and adherence to the Acts is mandated by the U.S. Department of Education for receipt of federal funds.

We hope this manual will assist the children with disabilities to have a better educational experience in the schools of Tennessee.

Joseph E. Fisher
Assistant Commissioner
Division of Special Education

N.B. This manual was updated in October 2000 but the substance of the manual was not materially altered. The revised manual was reviewed by OCR.

Introduction

With the increase of various conditions being identified as possible disabling conditions, Section 504 of the Rehabilitation Act of 1973 is receiving more and more attention. Law conferences, in-service training and teacher meetings dealing with student rights invariably include sessions on Section 504. The Office for Civil Rights (OCR) has stepped up its enforcement efforts. Parents and advocacy groups are bringing questions and complaints to the Tennessee Department of Education and their local school system for resolution.

Special Education administrators and 504 coordinators have requested that the State Department of Education provide technical assistance to LEAs to assure compliance with the statute. This manual is the result of the work of special education administrators, 504 coordinators, superintendents, Department of Education staff and other experts. Its purpose is to provide guidance to LEAs as they develop their own policies required by federal laws. The specific requirements of this manual are mandated by Section 504 and not necessarily the Tennessee Department of Education.

The provisions of Title II of the Americans with Disabilities Act, 1990 and Section 504 are similar in nature. Generally, Title II and Section 504 are interpreted consistently.

Section 504 is a civil rights statute which provides that: "No otherwise qualified individual with handicaps in the United States...shall, solely by reason of his/her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." (29 USC § 794) The purpose of this manual is to assist LEAs in addressing the implications of this Act.

Frequently Used Terms

Educational Need	A substantial limitation on learning demonstrated by a serious academic deficit and/or serious behavior problems resulting from the student's disability and not from other causes.
Educational Placement	Placement in a setting with children who are not disabled to the maximum extent appropriate to the needs of the child. <i>34 CFR § 104.34.</i>
Eligibility	<p>A student is eligible under §504 if the student:</p> <ul style="list-style-type: none">(a) has a physical or mental impairment which substantially limits one or more major life activities;(b) has a record of such an impairment; or(c) is regarded as having such an impairment. <i>34 CFR §104.3(j)(1).</i> <p>Students who are eligible for educational services under §504 & IDEA have dual eligibility.</p>
Free Appropriate Public Education (FAPE)	A student who is eligible under §504 & has an educational need is entitled to FAPE. A LEA shall provide FAPE to each qualified handicapped person who is in its jurisdiction. The LEA shall provide regular or special education and related aids or services designed to meet the individual's educational needs. FAPE must be provided without cost, except for fees that are also paid by non-disabled students. <i>34 CFR §104.33</i>
Major Life Activity	Functions such as walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks. The disability only needs to substantially limit one major life activity in order for the student to be eligible. <i>34 CFR §104.3(j).</i>
Manifestation Determination	Meeting of the 504 review committee to determine whether the student's behavior is related to his/her disability when a student eligible under Section 504 is removed from classes to such an extent that it constitutes a significant change of placement.

Parent	A natural or adoptive parent or guardian, surrogate parent, someone acting in place of a parent (i.e., grandparent with whom the child lives), or someone who is legally responsible for the child. The term parent also applies to an adult student receiving 504 services.
Physical or Mental Impairment	<p>(a) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or (b) any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities. <i>34 CFR § 104.3 (j) (2) (I).</i></p> <p>A physical or mental impairment does not constitute a handicap unless its severity is such that it results in a substantial limitation of one or more major life activities.</p>
Procedural Safeguards	A system of activities established and implemented by the LEA that provides the parent or guardian with notice, an opportunity to examine relevant records, an impartial hearing with parental participation and representation by counsel, and a review procedure when there is a disagreement between the parents and the LEA regarding the identification, evaluation or educational placement of a student eligible under §504. <i>34 CFR §104.36.</i>
Section 504 Coordinator	A responsible employee of a recipient of federal funds that employs fifteen (15) or more persons who shall coordinate the efforts to comply with the section 504 regulations.
Section 504 Review Committee	A group of persons knowledgeable about the student, knowledgeable about the meaning of the evaluation data, the placement options, the legal requirements to place a disabled child in the least restrictive environment, and the legal obligation to provide comparable facilities to disabled students. The committee shall include the 504 coordinator or designee, possibly a counselor, parents, and professionals knowledgeable about the student.
Significant Change in Placement	A substantial and fundamental change in a student's educational program. Whether a change in facilities is a significant change in placement must be determined on a case by case basis. For example, if a student is receiving the same services and programming in substantially the

same environment, there has not been a significant change in placement. However, OCR considers regular education transfers made due to age considerations, including graduation, to be a significant change in placement.

Student Services Plan

A written document developed by a student's 504 review committee which states the nature of the concern, the specific modifications, and the related support services to be provided to a child who is eligible under Section 504.

Substantially Limits

Means: (1) the inability to perform a major life activity that the average person in the general population can perform;” or (2) Substantial limitation as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration which the average person in the general population can perform that same major life activity. *29 CFR § 1630.2 (j)*. This definition is not comprehensive and reflects the fact that a definition is not included in the regulations. The Office of Civil Rights (OCR) has declined to formally interpret the term in non-regulatory guidance. OCR has stated that the term has been interpreted to require an important and material limitation. Decisions should be made by the 504 review committee on a case by case basis.

FREQUENTLY ASKED QUESTIONS AND ANSWERS

What is a "program or activity"?

The term includes all levels of the Tennessee Department of Education and all LEAs or schools receiving federal funds regardless of whether the specific program or activity involved is a direct recipient of federal funds. For example, if a district contracts with alternative education programs, the district must insure that a student with disabilities has an equal opportunity to participate in alternative education, even though the programs themselves do not receive any federal funds. *34 CFR 104.3(f); Civil Rights Restoration Act of 1988 (PL 100-259)*

Who is a "qualified" individual with a disability?

For elementary and secondary education programs, Section 504 regulations define a qualified individual with a disability as one who is:

- a) of an age during which non-disabled individuals are provided with educational services;
- b) of any age during which it is mandatory under State law to provide such services to disabled individuals; or
- c) entitle to FAPE under IDEA. *34 CFR §104.3(k)(2).*

Who is eligible under Section 504?

There are three ways that a person may qualify under these regulations. A person is eligible under Section 504 if s/he:

1. Has a physical or mental impairment, which substantially limits one or more major life activities (e.g., any student receiving services under IDEA; drug addicted or alcoholic students; students with diabetes). The definition in the regulations does not set forth a list of specific diseases and conditions that constitute physical or mental impairments because of the difficulty of ensuring the comprehensiveness of any such list. The

term does not include children disadvantaged by cultural, environmental or economic factors nor are prison records, age or homosexuality.

2. Has a record or history of such an impairment (e.g., a student with learning disabilities who has been decertified as eligible to receive special education under IDEA; a student who had cancer; a student in recovery). The term also includes children who have been misclassified (e.g., a non-English speaking student who was mistakenly classified as having mental retardation).

3. Is regarded as having such an impairment. A person is considered eligible if he/she:

a.) has a physical or mental impairment that does not substantially limit a major life activity but is treated by the LEA as having such a limitation (e.g., a student who has scarring, a student who walks with a limp);

b.) has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others towards such impairment ; or

c.) has no physical or mental impairment but is treated by the district as having such an impairment (e.g., a student who tests positive with the HIV virus but has no physical effects from it). *34 CFR 104.3(j)*.

The above cited examples are not exhaustive.

Unlike IDEA, a student with a physical or mental impairment may be covered under §504 even if s/he requires no accommodation or services. The purpose of including these students is to protect them from being injured by prejudice or stereotypical attitudes of others.

Also, there is nothing in either the statute or regulations that expressly states that a disability must be permanent for §504 protections.

The determination of the Section 504 review committee to extend services to a student with a temporary disability must be made on a case by case basis. The 504 review committee should take into consideration how long and how severely the temporary impairment limits a major life activity for a particular student.

What is the difference between Section 504 and IDEA eligibility?

The Individuals with Disabilities Education Act (IDEA) specifically lists the disabling conditions which entitle a child to receive special education and related services. Additionally, in order to receive services under IDEA, the disabling condition must result in a need for special education and related services.

Section 504 is much broader. There is no categorical listing of disabling conditions. However, if a child is IDEA eligible, s/he will also be protected under Section 504. The regulations also make clear that certain conditions, such as drug or alcohol addiction, and heart disease, which would not qualify a child under IDEA, may be disabling conditions under Section 504.

Examples of other potentially disabling conditions under Section 504 (if they substantially limit a major life activity) which are not typically covered under IDEA are:

1. Communicable diseases: AIDS, AIDS related complex (ARC) or asymptomatic carriers of the AIDS virus (HIV); tuberculosis;
2. Temporary disabling conditions: Students injured in accidents or suffering short-term illnesses;
3. Behavior disorders;
4. Chronic asthma and severe allergies;
5. Physical handicaps such as spina bifida, hemophilia and conditions requiring children to use crutches;
6. Diabetes.

May a LEA use IDEA funds to serve child eligible under §504 but not IDEA?

No. However, the LEA may use IDEA funds to evaluate the child if the LEA thinks that the child may be eligible for special education and related services.

Does §504 have a Child Find requirement?

Yes. Section 504 requires the LEA to conduct an annual effort to identify and locate every qualified student residing in the LEA's jurisdiction and take any necessary steps to notify those students and their parents of the LEA's duty under §504. If the LEA chooses, it may undertake screenings to meet this requirement.

How is discrimination defined in Section 504?

Discrimination under Section 504 occurs when a recipient of federal funds:

1. Denies, on the basis of a disability, a qualified person the opportunity to participate in or benefit from an aid, benefit or service (e.g., LEA refusing to allow any student with an IEP the opportunity to be on the honor roll; denial of credit to a student whose absenteeism is related to his/her disabling condition; expelling a student for behavior related to his/her disability; refusing to dispense medication to a student who could not attend school otherwise.)
2. Denies the Section 504 qualified person an opportunity to participate in or benefit from the aid, benefit, or service that is *equal* to that afforded others.
3. Fails to provide aids, benefits, or services to a person qualified under Section 504 that are as *effective* as those provided to non-disabled persons (e.g., providing him/her with an interpreter instead of placing a student with a hearing impairment in the front row). Note: “Equally effective” means *equivalent* as opposed to *identical*. Moreover, to be *equally effective*, an aid, benefit or service need not produce equal results; it must merely afford an equal opportunity to achieve equal results. *Comment to 34 CFR 104.4(b)(2)*.
4. Provides different or separate aids, benefits or services to disabled persons or any class of disabled persons unless such action is necessary to provide aid, benefits or services that are as effective those provided to others.
5. Aids or perpetuates discrimination against the disabled by providing significant assistance to an agency, organization or person that discriminates on the basis of a disability in providing any aid, benefit, or service to beneficiaries of the program (e.g., sponsoring a student organization that excludes persons with disabilities).
6. Denies a person with a disability the opportunity to participate as a member of a planning or advisory board strictly because of their disability.

7. Otherwise limits the enjoyment of any right, privilege, advantage or opportunity enjoyed by others.

8. In determining the site or location of a facility, makes selections which effectively excludes persons with disabilities, denies them the benefits of, or otherwise subjects them to discrimination. *34 CFR 104.4.*

Who enforces Section 504?

The Office for Civil Rights (OCR) enforces four federal statutes that prohibit discrimination in programs and activities receiving federal financial assistance from the U.S. Department of Education. Discrimination on the basis of race, color, and national origin is prohibited by Title VI of the Civil Rights Act of 1964; sex discrimination is prohibited by Title IX of the Education Amendments of 1972; discrimination on the basis of disability is prohibited by Section 504 of the Rehabilitation Act of 1973; Title II of the American with Disabilities Act of 1990; and age discrimination is prohibited by the Age Discrimination Act of 1975. OCR also assists other departmental offices in ensuring that federal assistance administered by those offices is consistent with federal civil rights laws.

OCR has authority to enforce these laws in all programs and activities that receive federal funds. These include programs and activities operated by institutions and agencies, such as state education agencies, elementary and secondary schools, colleges and universities, vocational schools, vocational rehabilitation agencies, libraries, museums and some prisons that receive federal funds or other recipients.

OCR investigates complaints filed by individuals, or their representatives, who think that they have been discriminated against because of race, color, national origin, sex, handicap, or age. It also initiates compliance reviews of recipient institutions and agencies, and monitors the progress in eliminating discriminatory practices of institutions and agencies that are implementing plans negotiated by OCR. OCR attempts to resolve compliance problems through negotiation. However, if unable to do so, OCR initiates the actions necessary to enforce the law.

Parents who allege that the LEA has violated a provision

of Section 504 may file a complaint with the OCR. The address of the regional office which covers Tennessee is:

United States Department of Education
Office for Civil Rights
Atlanta Office, Southern Division
61 Forsyth St., S.W.
Suite 19T70
Atlanta, GA 30303
(404) 562-6350

LEA Obligations for Elementary and Secondary Education

1. Compliance Requirements

To be in compliance with Section 504, LEAs must do the following:

1. Provide written assurance of non-discrimination whenever the LEA receives federal money. *34 CFR 104.5(a). See Appendix A-4 and A-5 for sample wording.*

2. Designate an employee to coordinate its efforts to comply with Section 504. (Applies to recipients of federal funds with 15 or more employees.) *34 CFR 104.7(a). See Appendix A-1 for a list of general responsibilities.*

3. Adopt grievance procedures to resolve complaints alleging any action prohibited by federal regulations. (Applies to recipients of federal funds with 15 or more employees). This does not apply to applicants for employment. *34 CFR 104.7(b)* Note: Students, parents or employees are entitled to file grievances. *See Appendix A-2 for sample policy.*

A grievance procedure like that afforded to parents under the Family Education Rights and Privacy Act (FERPA) for resolving disputes about student records would suffice.

4. Provide notice to students, parents, employees, unions, and professional organizations of nondiscrimination in admission or access to, or treatment or employment in, its programs or activities (if 15 or more employees). Notice must also specify the responsible employee. Notice must be included in student/parent handbook. *34 CFR 104.8 See Appendix A-4 and A-5 for sample wording, and methods of notification.*

5. Annually identify and locate all Section 504 qualified

children in the LEA's geographic area who are not receiving a public education. *34 CFR 104.32(a).*

6. Annually notify persons who are disabled and their parents of the district's responsibilities under Section 504. *34 CFR 104.32(b).*

7. Provide parents with procedural safeguards:

a.) Notice of their rights. *Sample notices can be found in Appendix A-8 and A-20;*

b.) An opportunity to review relevant records;

c.) An impartial hearing. Each LEA must develop a process to ensure impartial due process hearings. The Tennessee Department of Education's Administrative Law Judges (ALJs) are impartial and have been trained in 504 issues. A list of these judges may be obtained from the Division of Special Education. The employment of one of the Division's ALJs as a 504 hearing officer for a LEA remains the financial responsibility of the LEA.

It is important that parents be notified of their right to request a hearing regarding issues of identification, evaluation, or educational placement of persons with a disability. If the LEA proposes to change the student's placement and the parent files a request for a hearing, the LEA is obligated to maintain the student's placement until administrative proceedings are completed. *34 CFR 104.36. See Appendix A-3 for a sample copy of Due Process Hearing Procedures for a LEA.*

2. Student Referrals

Parents, teachers, physicians, diagnosticians, and building administrators may refer for an evaluation a student who is suspected of having a Section 504 disabling condition that substantially limits the learning process. The person may obtain a written referral form from the 504 designee who will assist both the parent and the campus personnel in collecting appropriate student data as well as providing parents with appropriate notification.

The 504 coordinator will present these written requests to the Section 504 review committee for determination

of educational need. Some of these Section 504 referrals may result in a specific request for initiation of a special education referral. Special education referral forms may be obtained from the appropriate teacher(s) and school psychologists.

A copy of the notice will be filed and maintained in the student's 504 folder located at his/her current school. An additional copy of the notice will be sent to the LEA's Section 504 coordinator.

If the child is evaluated and not eligible under IDEA, the IEP Team shall refer the child to the Section 504 coordinator for determination of 504 services. The IEP Team will provide the 504 coordinator with the inactive special education file. The 504 review committee will meet at the school to determine eligibility and recommend proposed services.

3. Free Appropriate Public Education (FAPE)

Districts must provide FAPE (regular or special education and related aids and services) to Section 504 school-age children in the LEA's jurisdiction. *See Appendix A-9.* Instruction must be individually designed to meet the needs of the student as adequately as the needs of non-disabled students.

Section 504 does not require LEAs to develop an IEP. It is recommended that the LEA document that the Section 504 review committee convened and specify the agreed-upon services in a document called a Student Services Plan. *See Appendix A-13 for an example.*

The quality of educational services provided to students with disabilities under Section 504 must be equivalent to the services provided to non-disabled students. Teachers must be trained in the instruction of persons with the disability in question and appropriate materials and equipment must be available. *Comment to 34 CFR 104.33(b).*

A. Transportation

If a LEA places a student in a program not operated by the LEA, the LEA must insure that adequate transportation to and from the program is provided at no greater cost than would be incurred by the parent if the student were placed in the program operated by the LEA. *34 CFR 104.33(c)(2)* If a LEA provides transportation to all its students within a certain geographic area, it may

not discriminate in its provision of transportation to students with a disability. *34 CFR 104.4(b)(i)*. The length of the bus rides for students with disabilities should not be longer than that of non-disabled students.

If a LEA proposes to terminate a qualified student's bus transportation for inappropriate bus behavior, the LEA must hold a manifestation determination and provide the parents with notice of their rights.

B. Residential Placement

The placement must be provided by the LEA at no cost to the parent if necessary to provide FAPE. This includes non-medical care and room and board. *34 CFR 104.33(c)(3)*.

C. Parental Placements

If the LEA offers FAPE to a student but the parent chooses to place the child elsewhere, the LEA is not responsible to pay for the placement. *34 CFR 104.33(c)(4)* This provision is identical to language contained in IDEA. For example, if the LEA's program is appropriate and the parent places the child in a private school, the LEA is not responsible for the student's tuition. Disagreements regarding program availability and financial responsibility are subject to due process procedures.

4. Evaluations

a. An evaluation is usually triggered by a request from a parent or a referral from the classroom teacher. A LEA is required to evaluate the student only when it has reason to believe the child needs special education and related services. However, it is best practice to evaluate the student unless there is no reason to suspect the student might be eligible under §504.

If a student needs or is believed to need special education or related services, the LEA must evaluate the student prior to initial placement in a regular or special education program and before any significant change in placement. *34 CFR 104.35(a)*

A full evaluation is not required when neither the LEA nor the parents believe that the child is in need of special education or related services. However, the LEA should have current medical information in order to make needed modifications to the student's educational program.

b. The LEA must establish policies and procedures for evaluation and placement which assure that tests and other evaluation materials:

- Have been validated for the specific purpose for which they are used and are administered by trained personnel;
- Are tailored to assess educational need and are not merely based on IQ scores; and
- Reflect aptitude, achievement or whatever else the tests purport to measure and do not reflect the student's impaired sensory, manual or speaking skills (unless the test is designed to measure these particular deficits). 34 CFR 104.35(b)

Generally there is no entitlement to an independent evaluation under Section 504 and Title II. However, in some instances a LEA may be compelled to provide an independent evaluation.

c. Before a student can receive services, the parents must be notified and the student must be evaluated using validated tests and trained personnel. Both parental consent (See *Letter to Durham*, 27 IDELR 380 (OCR 1997) and prior notice are required before a student is evaluated and/or placed. However, LEAs are not required to obtain parental consent for subsequent student evaluations although it would be best practice. In the case of consent, the LEA should have parental override procedures in place when a parent refuses consent for an initial evaluation. The LEA may reserve the right to use the Section 504 due process hearing procedures but are not required to do so.

The evaluation/screening and placement process is determined by the type of suspected disability and the type of services the student may need.

34 CFR § 104.35 sets out the requirements for an "evaluation" under Section 504. Evaluation is a broad term and provides for consideration of a variety of information. The evaluation/screening must be sufficient to accurately and completely assess the nature and extent of the disability in order to recommend appropriate services. For example, in the case of the

student with juvenile arthritis, the evaluation might consist of the school nurse meeting with the parent and reviewing the student's current medical records. In the case of students suspected of suffering from Attention Deficit Disorder (ADD) or Attention Deficit Hyperactivity Disorder (ADHD) current psychoeducational evaluations may be used if such evaluations assess the issue.

Evaluation data may include, but is not limited to, formal and informal test instruments, aptitude and achievement tests, teacher recommendations, physical or medical reports, students grades, progress reports, parent observations, anecdotal reports, and TCAP scores. The evaluation shall include a behavior report to indicate the effectiveness with which the student meets the standards of personal independence and social responsibility expected of his/her age and cultural group.

The 504 review committee may conclude that:

1. additional testing or information will be needed to determine if this student is eligible under Section 504;
2. referral information will be sufficient to determine if the student is eligible under Section 504, has a disability which substantially limits learning or effective participation in school, and requires a student services plan in regular education; or
3. should be referred to special education because of a possible disability and need for instructional and related services.

Section 504 requires that the evaluation be completed within a "reasonable time" of being on notice of a student's behavior that is likely to indicate a disability. Suggested timelines are as follows:

- The evaluation/screening data will be compiled within a maximum of twenty (20) school days from the date the referral is logged by the 504 coordinator. The 504 review committee will convene and review all evaluation data within fifteen (15) school days of the completion of the evaluation report. The 504 coordinator will notify

parents in writing of the meeting of the 504 review committee at least five (5) school days before the meeting date. A copy of the parents or guardians notice will be placed on file in the student's 504 folder.

OR

- The LEA may utilize the *Rules, Regulations and Minimum Standards for the Governance of Tennessee Public Schools* regarding special education timelines as a means of ensuring compliance.

Parents are entitled to a copy of the 504 Student Services Plan. If parents do not attend the meeting, a copy should be mailed to them.

5. Placement

In interpreting evaluation data and making placement decisions, the 504 review committee must:

- a. Draw upon information from a variety of sources;
- b. Assure that all information is documented and considered;
- c. Ensure that the placement decision is made by a group of persons including those who are knowledgeable about the child, the meaning of the evaluation data and placement options;
- d. Ensure that the student is educated with non-disabled peers to the maximum extent appropriate.^{34 CFR 104.35(c)}

To the maximum extent appropriate, the LEA must educate students who are disabled with non-disabled students in the least restrictive environment. In order to remove a child from the regular educational environment, the LEA must demonstrate that education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. ^{34 CFR § 104.34}

6. 504 Review Committee

The 504 review committee has the responsibility of determining eligibility and appropriate modifications, related aids or services for the student, and will be

composed of the 504 coordinator, principal, parents and professionals knowledgeable about the student. Other persons may be invited to attend the committee meeting by the parents and/or the LEA. The group should review the nature of the disability, how it affects the student's education, whether special services are needed, and if so what those services are. The decisions about Section 504 eligibility and services must be documented in the student's file and reviewed periodically. The 504 review committee meeting may proceed when the parents are not present, but every effort should be made and documented by the 504 coordinator to have them attend the meeting, such as calling them or rescheduling the meeting.

The function of the 504 review committee will be to consider the student's eligibility, initial placement program, services needed, conduct program reviews, and annually review the student's 504 program. Specifically, the school's 504 review committee will:

- (1) review recent and relevant evaluation/screening information;
- (2) determine if the student is eligible under Section 504;
- (3) determine if the student has a disability which substantially limits the student's learning or effective participation in school;
- (4) develop a student services plan for the student in the general curriculum, including a review of accessibility of facilities;
- (5) refer the student to special education when the student appears to have an eligible disability and possible need for special education and related services;
- (6) recommend any modifications in the LEA's discipline plan procedures which might be needed due to the student's disability; (Modifications in discipline procedures might include specific consequences for specific behaviors and alternative actions other than those mandated in the discipline plan.)

(7) conduct a manifestation determination when (a) the student is being suspended from school for more than ten (10) consecutive school days; (b) a series of suspensions which would create a pattern of exclusions that constitute a significant change in placement; or (c) the student is being expelled from school; (In instances where a child's IEP or student services plan is not implemented as written, in-school suspension and bus suspensions are treated as expulsions from school.); and

(8) review the student's academic progress when the student is not making satisfactory progress in the general curriculum or persistent behavior problems occur at school.

7. Student Services Plan

The Student Services Plan developed by the 504 review committee is based upon the child's educational need(s) and least restrictive environment considerations.

The 504 review committee's student services plan will document the proceedings of the committee. The report will include the date, student information reviewed, the findings of the committee, modifications, and the signature and recommendations of the members present at the meeting. A copy of the student's services plan will be made available to the appropriate school personnel when it contains supplemental/supportive service provisions to be implemented at school. The 504 review committee's student services plan will be filed and maintained in the student's education records.

The child's student services plan may address:

- Adaptive equipment and materials
- Behavior management recommendations
- Mental impairment
- Instructional modifications
- Referral to non-disabled support program
- At-risk program
- Tutoring program
- Counseling program
- Testing modifications
- Other recommendations

8. Reevaluations

Section 504 requires *periodic* reevaluations. Unlike IDEA, there is no specified time limit. However, LEAs

will be in compliance if they reevaluate the student every three years. Additionally, Section 504 requires a reevaluation before any significant change in placement. *34 CFR 104.35(d)*. Reevaluation can consist of a comprehensive evaluation or a review of the student data and student service plan.

Examples of significant changes in placement which require reevaluation:

- Expulsion
- Serial suspensions which exceed 10 days (consideration must be given to the frequency of suspensions, the length of each and their proximity to one another.)
- Transferring a student to home instruction
- Graduation from high school
- Significantly changing the composition of the student's class (e.g., moving the student from regular education to the resource room.)

9. Non-Academic Services

LEAs must provide equal opportunity in areas such as counseling, physical education, recreation, athletics, transportation, health services, recreational activities, special interest groups or clubs, referrals to other agencies and employment. *34 CFR § 104.37*. Section 504 regulations give students with disabilities an equal opportunity to participate in extracurricular services and extend the least restrictive environment mandate to extracurricular activities.

a. *Counseling*: LEAs must provide counseling services without discrimination on the basis of disability. LEAs may not counsel students with a disability toward more restrictive career objectives. *34 CFR § 104.37(b)*

b. *Physical education and athletics*: A LEA must provide an equal opportunity for students with disabilities to participate. A LEA may offer these activities separately for students who are disabled only if necessary, and the district may not deny a disabled student the opportunity to compete in activities which are not separate. *34 CFR § 104.37(c)*

10. Inspection & Review of Education Records

Parents may inspect and review education records collected, maintained or used for purposes of referring,

evaluating, placing or educating the student in the Section 504 program by contacting the 504 coordinator. Upon reviewing the parents' request, the 504 coordinator will allow them to inspect the records or copies of the records will be made available to them within thirty (30) calendar days or at other mutually convenient times by prior arrangement.

The Family Education Rights and Privacy Act (FERPA), 20 USC § 1232g, also specifies rights related to education records. This Act gives the parent the right to: 1) inspect and review his/her child's education records; 2) make copies of these records; 3) receive a list of all individuals having access to those records; 4) ask for an explanation of any item in the records; 5) ask for an amendment to any report on the grounds that it is inaccurate, misleading, or violates the child's rights; and 6) request a hearing on the issue if the school refuses to make the amendment.

11. Grievance Procedures

The LEA must adopt a grievance procedure for a student, parent or employee to file a grievance concerning alleged violation of Section 504. *See Appendix A-2 for a sample grievance procedure, which may be adopted by the LEA to be in compliance.* OCR has opined that a compliant grievance procedure will include reasonable time frames, an opportunity to present evidence, notification of findings and an appeals process.

12. Mediation

Mediation is a method of resolving disputes. During mediation, parents and a school representative voluntarily meet with a mediator to review the student services plan and work out solutions that are satisfactory to both the parents and the school.

13. Due Process Hearings

When the parents disagree with the procedures, placement, or student services plan, every effort will be made to reach mutual agreement. If mutual agreement cannot be reached, the parents will receive a written copy of the LEA's policies & procedures for Section 504 due process hearings. The 504 coordinator will be informed of the disagreement.

Parents who wish to challenge a decision of the Section 504 committee shall file a written Notice of Appeal with

the Section 504 coordinator.

Upon receipt of a Parent's Appeal, the LEA will schedule a hearing before an impartial hearing officer and provide the parents with a written Notice of Hearing that sets out the date, time, and place for the hearing and advises them of their right to participate and be represented by an attorney. Either party may receive a continuance upon a showing of good cause and at the discretion of the hearing officer.

Requirements of the Hearing Officer

- a. The hearing officer will render a written decision at the conclusion of the hearing. Written findings of fact and conclusions of law shall be required.
- b. The hearing officer must not be an employee of the LEA and may not be related to any member of the board of education.
- c. The hearing officer need not be an attorney-at-law but shall be familiar with the requirements of Section 504.
- d. The hearing officer will be paid by the LEA as an independent contractor for services rendered in regard to the hearing. The hearing will be conducted without cost to the parents.

Hearing Rights

Rights to which both the parents and the LEA are entitled include the right:

- a. to file a written notice of appeal with the Section 504 coordinator;
- b. to schedule a hearing;
- c. to receive written notice of the hearing that sets out the date, time, place, and reason of the hearing;
- d. to an impartial hearing officer who is not an employee of the LEA or related to any member of the board of education.

e. to be accompanied and advised by an attorney and by persons with special knowledge of the problems of children with disabilities.

f. to obtain a copy of the written record or tape recording of the hearing.

g. to receive a written copy of the decision of the hearing officer.

h. to provide an interpreter for parents whose primary language is other than English or are hearing impaired.

Post-Hearing Rights

a. The parents will receive a written record or tape recording of all that was said at the hearing.

b. A copy of the hearing officer's decision will be given to both the LEA and the parents.

c. The decision made by the hearing officer is final unless the parents or the LEA appeals the decision to the appropriate state or federal court.

See Appendix A-3 for a sample policy for due process hearings.

Assessment of Academic Skills

All students are expected to pass examinations demonstrating mastery of basic skills in order to graduate from high school.

1. Testing Modifications

Test administration procedures that do not cause test results to be invalid may be used.

The decision to use a particular modification with a student should be made on an individual basis and should take into consideration the needs of the student and whether the student routinely receives the modification in classroom instruction. The student's IEP Team or 504 review committee shall make the decision regarding testing modifications and document them in the student's IEP or Student Services Plan.

2. Allowable Modifications

- Provisions may be made for signing any instructions given orally before or after the test to students with a hearing impairment.
- Students may place a colored transparency over the test, or they may use a place marker with the test and the answer document.
- Students may receive an individual administration of the assessment instrument, and in this setting, may read aloud as they work.
- The student may use a large-print version of the test.
- The student may use a Braille version of the test.
- Students may respond orally to test items or type their responses if they have a disabling condition that interferes with their ability to record machine-readable responses. The test administrator must record these responses verbatim on a standard answer document.

This list of allowable modifications is illustrative rather than exhaustive.

Discipline

A student in a 504 program is subject to the school's student code of conduct. Discipline is part of the educational process. It prepares a student to work with other people in a socially acceptable manner. The Student Services Plan may include a behavior management plan which outlines disciplinary options to be used.

1. Removal from Classes

In some cases, inappropriate behavior may cause the student to be removed from classes and/or school for a few days or to be sent to an alternative education program, such as a supervised setting separate from regular classes or in-school suspension. In either case, the student will be given the opportunity to complete assignments and earn course credit.

The 504 review committee will conduct a manifestation determination when a student with a disability is suspended from school for more than ten (10) consecutive school days or when a series of suspensions create a pattern of exclusions that constitute a significant change in placement. The determination will be based on current/relevant information and re-evaluation data. The evaluation data considered in a manifestation determination meeting must be based on the kind of information necessary to make a competent professional decision and must be recent enough to afford an understanding of the student's current behavior.

The determination of whether a series of suspensions is a significant change of placement will be made on a case-by-case basis by the 504 review committee. The factors that will be considered will be the length of each suspension, the proximity of the suspension to one another, and the total amount of time the disabled student is suspended from school.

When it is determined that the disabled student's misconduct is caused by his/her disabling condition, the student may not be suspended from school. The 504 review committee will then determine whether the student's current educational placement or accommodation plan is appropriate.

OCR interprets §504 as requiring LEAs to develop an individualized behavior management plan for a student

with a disability when the student's behavior significantly interferes with his ability to benefit from his education. The purpose of the plan is to maintain the student's placement in the least restrictive environment to meet his educational needs.

When a student presents an immediate threat to the safety of others, school officials may promptly adjust the placement or suspend him/her for up to ten (10) school days. Removal for more than 10 days requires the same guidelines as for special education students. The student is entitled to the due process protections of 34 CFR §104.36.

2. Expulsion

If a student commits a serious offense, such as hitting a teacher or another student, or continues to engage in serious persistent misbehavior that violates the LEA's code of conduct, s/he may be expelled from school.

Before an expulsion or other exclusion that constitutes a significant change in placement, the 504 review committee must conduct a manifestation determination. Such a determination should be based on current/relevant evaluation data.

If it is determined by the 504 review committee that the misconduct is caused by the student's disabling condition, the student may not be expelled. The 504 review committee must then determine whether the student's current educational placement is appropriate.

If it is determined by the 504 review committee that the misconduct is not caused by the student's disabling condition, the student may be disciplined in the same manner as similarly situated non-disabled students are excluded. However, educational services must be provided if the student is eligible under IDEA or if State law mandates the provision of educational services to non-disabled students.

Special Issues

Student's Addiction to Drugs or Alcohol

If the LEA suspects that a student has an alcohol or drug problem, what should it do?

If a LEA suspects that the drug or alcohol problem may be substantially limiting a major life activity, such as learning, the LEA is obligated to evaluate the child at the LEA's expense. If the evaluation verifies the existence of a disabling condition, which substantially limits a major life activity, the student is considered disabled under Section 504.

The LEA must then convene a 504 review committee meeting. The committee will design an educational program to meet the student's individual needs and give notice to the student's parents of their rights under Section 504. The LEA must periodically reevaluate the student and may not make a significant change in the student's placement without providing the parent with notice and conducting a reevaluation.

NOTE: Section 504 does not require LEAs to provide treatment for substance abuse.

What if the student is caught using drugs at school?

A LEA is entitled to enforce its rules prohibiting the use, sale or possession of drugs or alcohol by drug- or alcohol-addicted students, provided that the rules are enforced evenly with respect to all students. *Comment to 34 CFR § 104.3(j)* Although using drugs at school is related to drug addicted student's disability, the LEA may still use its normal disciplinary policies, including expulsion, so long as permitted under the LEA's policies, provided that the LEA follows proper procedures.

If the student is protected by Section 504 (and is not IDEA eligible), the LEA does not have to afford the student his/her procedural safeguards. This is a notable exception to the general prohibition against expelling a student for behavior

related his/her disability under Section 504 and the IDEA. If the manifestation determination finds that a relationship exists, the LEA must afford the student his/her due process rights and continue to provide special education services. In all cases of expulsion, the district must offer the student a hearing to rebut the charges.

Are there any special considerations for children who have AIDS or HIV Infection?

Students with Acquired Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or otherwise infected with Human Immunodeficiency Virus (HIV-infected) are individuals with disabilities under Section 504. They either qualify as actually having a physical impairment, which substantially limits a major life activity, or are regarded as having such a disability. Depending on the nature of the disease and the student's other conditions; the student may also qualify under IDEA.

Placement decisions must be made by the 504 review committee. Unless currently presenting a risk of contagion due to the stage of the disease (e.g., a contagious opportunistic infection, open lesions that cannot be covered) or parents and school agree on an alternative, a child with AIDS should remain in the regular classroom.

Program Accessibility

What is the LEA's responsibility to make buildings accessible?

Facilities which are defined by Section 504 and Title II as "existing facilities" need not necessarily be made accessible so long as the program or activity, viewed in its entirety, is readily accessible to persons with disabilities. *34 CFR § 104.22* It would not be necessary to make every school in a LEA accessible. However, the student must be afforded an equal opportunity to enjoy the full range of services offered by the LEA. For example, if a LEA runs a magnet school with specialized studies, students may not be denied access to the program merely because of accessibility problems. It would not be discriminatory, however, if a LEA contracts with a private alternative education program that cannot accept students needing special education because of the lack of a qualified teacher if the LEA is able to provide Section 504 or IDEA eligible students a comparable program elsewhere.

What modifications can the LEA make to facilities?

A LEA can redesign equipment, reassign classes or other services to accessible buildings, assign aides to students, deliver services at alternate accessible sites, or alter existing facilities. So long as there are other methods, which are as effective in achieving compliance, a LEA need not undertake structural changes to a building. *34 CFR § 104.22(b)*

What are some examples of unacceptable accommodations?

Carrying a student upstairs; in a LEA, making one particular building or part of a building accessible and placing all students with mobility impairments at this location (*Comment to 34 CFR § 104.22*); having students who are disabled eat on a separate floor due to an inaccessible cafeteria; denying certain programs such as music, art or assembly because these programs are inaccessible.

What are the LEA's obligations for new buildings or additions?

Buildings or additions constructed since June 3, 1977 must be designed and constructed to allow disabled persons the ability to access and use them readily. *34 CFR § 104.23(a)* For example, multilevel buildings should have ramps or elevators, accessible bathrooms, doorways constructed wide enough to fit wheelchairs, etc. Contractors should be familiar with accessibility requirements.

What is the LEA's

To the maximum extent feasible, all facilities, which are

obligation when a building is altered?

altered after June 3, 1977, must be altered to allow accessibility and usability by persons with disabilities. ³⁴ *CFR § 104.23(b)* For example, if a school district adds on a wing to a building, the wing must be made accessible. If a storage room is converted into a classroom, modifications, such as widening the doorway, must be made.

What does “to the maximum extent feasible” mean?

This provision covers the occasional instance where the nature of an existing facility is such that it is impractical or prohibitively expensive to renovate in a manner that results in its being entirely barrier-free. However, in all of these instances, the alteration should provide the maximum amount of physical accessibility that is feasible. *Comment to 34 CFR § 104.23(b.).*

Who provides technical assistance for accessibility issues?

OCR can provide technical assistance to LEAs on fulfilling the accessibility requirements of Section 504.

Employment Practices

The purpose of this manual is to address issues regarding student rights under Section 504. However, since Section 504 also encompasses employment practices, this manual includes this section on employment practices. For further information on requirements of LEAs and their employees, please consult the Personnel Office of the LEA, and/or Chapter 34 of the Code of Federal Regulations, Part 104, Subpart B.

Who is a “qualified” individual with a disability for employment purposes?

A qualified individual with disabilities is one, who with reasonable accommodation, can perform the essential functions of the job in question. *34 CFR § 104.3(k)(1)*

What are the LEA’s responsibilities for hiring persons with disabilities?

LEAs, because they receive federal financial assistance under the IDEA and other federal statutes, are required to take positive steps to employ and advance qualified individuals with disabilities. *34 CFR § 104.12(a)*

LEAs must make reasonable accommodations to the known physical or mental limitation of an otherwise qualified applicant or employee who has a disability unless the accommodation would impose an undue hardship on the operation of the LEA’s program. *34 CFR § 104.12(a)*

What is considered an undue hardship?

The regulations lists the following factors which should be considered:

1. The overall size of the LEA’s program with respect to the number of employees, number and type of facilities, and size of budget.
2. The type of operation, including the composition and structure of its workforce.
3. The nature and cost of the accommodation needed.
34 CFR § 104.12(c)

What are reasonable accommodations?

Some examples of reasonable accommodations are:

1. Making facilities readily accessible to and usable by persons with disabilities.
2. Job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters. *34 CFR § 104.12(b).*

When may a LEA refuse to hire an applicant or promote an employee who has a disability?

The LEA does not need to hire an applicant when the person is not qualified, where reasonable accommodation does not overcome the effects of the person's disability, or where reasonable accommodation causes undue hardship to the employer. *Comment to 34 CFR § 104.12*

Is the LEA prohibited from asking an applicant about any disabilities s/he may have?

Generally, an employer covered by Section 504 may not conduct a pre-employment medical examination or make pre-employment inquiries as to whether an applicant has a disability. However, the employer may inquire into an applicant's ability to perform job-related functions. For example, an employer may not ask an applicant if s/he has epilepsy but may ask whether s/he can perform a particular job without endangering other employees.

If the employer is attempting to rectify past discrimination or taking voluntary action to overcome limited participation in its workforce, the employer may invite, but may not require, applicants to indicate to what extent they are disabled. In such instances, the employer must be clear that such information is voluntary and is intended solely to meet the employer's affirmative action or other obligation. *34 CFR 104.14.*

Are medical examinations prohibited?

An employer may condition employment on the results of a medical examination only if all applicants, regardless of disability, are also subject to such an examination and if the results are kept confidential. *34 CFR § 104.14*

What limitations are on an employer regarding testing applicants?

A test which tends to screen out persons with disabilities may not be used unless the test score is shown to be job related and alternative job related tests which do not screen out persons with disabilities are not available. Tests must also be administered in a manner that reflects actual aptitude or skill rather than the sensory, manual or speaking impairment of the applicant unless the tests purport to test these skills. *34 CFR § 104.13.*

Is an employer allowed to provide different

No. Such a suggestion was rejected by the U.S. Department of Education when the regulations were adopted. *34 CFR §*

fringe benefits or contributions for persons with disabilities if justified on an actuarial basis?

104.11 and Comment

What is an employer's obligation to hire or retain a person who is addicted to alcohol or drugs?

An employer subject to Section 504 may not refuse employment to someone who has been addicted to drugs or alcohol in the past. If an applicant or employee is presently addicted to alcohol, the employer may not refuse or terminate employment unless the employer can show that the alcohol addiction prevents successful performance on the job or presents a direct threat to property or the safety of others. The employer may hold the addicted person to the same standards of performance and behavior as expected of others. The behavioral manifestations of the condition may be taken into account in determining whether s/he is qualified. An employer is not required to retain or hire an individual addicted to drugs who is currently using drugs. 29

USC 706(8) (C) (v); Comment to 34 CFR 104.3(j)

Is an employer entitled to administer drug testing to persons known to have been addicted in the past?

Recent amendments to Section 504 clarify that an employer is not prohibited from requiring an employee to be drug tested who has successfully completed or is presently participating in a supervised drug rehabilitation program. 29

USC 706(8)(C)(ii).

Major Differences Between IDEA & Section 504

	IDEA	Section 504
Eligibility	Lists categories of qualifying conditions	A person who has or has had a physical or mental impairment that substantially limits a major life activity or is regarded as disabled by others.
FAPE	Required for eligible students to receive individualized instruction. LEA must provide IEP. "Appropriate" means a program designed to provide an educational benefit.	Required for eligible students to receive individualized instruction. "Appropriate" means an education comparable to the education provided to nondisabled students.
Special Education vs. General Curriculum	A student is only eligible to receive IDEA services if the IEP team determines that the student has one of the disabling conditions and needs special education and related services.	A student is eligible if s/he has or has had a physical or mental impairment, which substantially limits a major life activity or is regarded as disabled by others. The student is not required to need special education.
Funding	The LEA receives additional funds for eligible children.	Additional funds are not provided.
Accessibility	Not specifically mentioned although if modifications must be made to provide FAPE, IDEA requires it. Does not extend least restrictive environment to non-academic services.	Detailed regulations regarding building and program accessibility and comparable facilities. Includes academic settings.
Procedural Safeguards	Requires written notice regarding identification, evaluation, and placement. Notice requirements are specifically spelled out. Prior written notice required before any change in placement.	Written notice not required although it is recommended. Notice required before a significant change in placement.
Evaluations	Consent required prior to an initial evaluation. Reevaluations must be conducted at least every	Notice not consent required. Periodic Reevaluations required. Reevaluation required

	3 years. Not required before a change in placement. Provides for an independent evaluation.	before a significant change in placement. Independent evaluation required.
Grievance Procedures	Not required	LEAs with 15+ employees must designate an employee to insure compliance with Section 504 and provide a grievance procedure for parents, students & employees.
Due Process Hearings	Requires impartial hearing. Rules are almost identical.	Requires impartial hearing. Rules are almost identical.
Exhaustion	Must pursue administrative hearing before seeking redress in court.	Not required.
Enforcement	Compliance monitored by Tennessee Department of Education. Department will resolve complaints.	Enforced by OCR. OCR will investigate complaints.
Employment	No provisions.	Regulates employment of persons with disabilities.
Transition Services	IDEA requires the development of a transition plan within the IEP process beginning at age 14.	No requirement.
Independent Educational Evaluation	Required.	Not required except OCR has ordered reimbursement for evaluation costs as a remedy for failure to evaluate.



You may contact your LEA or the State Department of Education, Division of Special Education, Regional Resource Center in your area. The Division of Special Education, Central Office, is always available to assist you.

East TN Regional Resource Center

Rodney Franks, Coordinator
2763 Island Home Blvd.
Knoxville, Tennessee 37920
Phone: 865-594-5691
Fax: 865-594-5242

Middle TN Regional Resource Center


Bob Blair, Coordinator
1150 Menzler Road, 2nd Floor, Room 205
Nashville, Tennessee 37243
Phone: 615-532-3258
Fax: 615-532-3257

West TN Regional Resource Center

Larry Greer, Coordinator
100 Berryhill Drive
Jackson, Tennessee 38301
Phone: 731-421-5074
Fax: 731-421-5077

You may also contact:

**United States Department of Education
Office for Civil Rights**



Sam Nunn Federal Center
61 Forsyth Street SW, Suite 19T70
Atlanta, Georgia 30303
Phone: 404-562-6350
Fax: 404-562-6455

APPENDIX A

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Section 504 CoordinatorGeneral Responsibilities

1. Work in partnership with the local Director of Special Education.
2. Develop a district-wide compliance plan.
3. Gain school board approval of the compliance plan.
4. Disseminate the compliance plan in school system newsletters and to each school building.
5. Develop, implement and disseminate a detailing of procedural safeguards (Student/Parent Rights and Options).
6. Locate and appoint building-based compliance officers.
7. Develop, implement and disseminate commensurate Section 504 procedures.
8. Train compliance officers in Section 504 procedures.
9. Communicate district-wide procedures to staff and parents.
10. Continually seek new information relative to Section 504 compliance and up-date all data.
11. Appoint a local hearing officer.
12. Identify and locate a mediator, hearing and/or appeals officer for impartial due process hearings and related to referral, evaluation or placement of individuals with handicaps.
13. Facilitate the training of building-based compliance officers as to applicant and employment issues or related to Section 504 (also Americans with Disabilities Act – ADA).
14. Allocate public resources with report to the funding of Section 504 – (nonspecial education) related placements and/or issues.
15. Serve as the district liaison with the Office for Civil Rights.

SAMPLE POLICY:

GRIEVANCE PROCEDURE

The Board hereto acknowledges that it is usually most desirable for a grievance and the immediately involved employee to resolve alleged acts of discrimination through free and informal communications. A request for an informal conference shall be made by the grievant within ten days after an alleged violation has occurred. A conference shall be made within five days after receipt of said notice. If, however, the informal process fails to satisfy the grievant, a grievance may be processed as follows:

Step 1: Within five days following the informal conference, the grievant shall file a grievance on the form provided by the central office. The grievant should present the grievance in writing to the Section 504 Coordinator. Within twenty days of the receipt of the grievance, the Coordinator shall conduct a hearing regarding the complaint. All parties involved in the grievance shall be given five days notice of the date, time and place of the hearing. The parties shall be granted appropriate due process rights as required by law including the right to be represented by counsel, offer testimony, present evidence, cross examine witnesses, and appeal rulings. Within twenty days of the adjournment of the hearing, the Coordinator shall render a written decision regarding the grievance.

Step 2: If the grievant is not satisfied at Step 1, the grievant may refer the grievance to the superintendent within ten days after receipt of the Step 1 answer. The superintendent or his designee shall hold a de novo hearing following the same procedures as in the previous hearing.

Step 3: If the grievant is not satisfied at Step 2, the grievant may within ten days request a Due Process Hearing. This hearing shall follow the same procedures as required in the cases involving Special Education.

Advanced Step Filing: Grievances may be initially filed at Step 1 thereby eliminating the informal conference.

No Reprisals: No reprisals shall be taken by the Board or its agents against any individual because of participation in this process.

Withdrawal: A grievance may be withdrawn at any level without establishing a precedent.

Time Limitations: An extension of the time limits is permissible by mutual consent of the parties at any level

Definitions

A “Grievance” shall mean any claim by any student, parent or employee that there has been a violation, misinterpretation, or misapplication of the terms of Section 504.

The term “days” shall mean any day, Monday through Friday, on which schools are open during the normal school year. After the last day of the normal school year, a “day” shall be Monday through Friday, excluding holidays.

SAMPLE POLICY: DUE PROCESS HEARING PROCEDURES

Section 504 (34 CFR § 104.36) requires that school systems maintain a procedure for conducting impartial hearings with opportunity for participation by the student's parents or guardian and representation by counsel. Since compliance with the due process requirements of the Individuals with Disabilities Education Act is one means of meeting the Section 504 provision, the following outline of IDEA due process is provided.

A DUE PROCESS HEARING IS A LEGAL PROCEDURE, WHICH IS CONDUCTED BY AN ADMINISTRATIVE LAW JUDGE. EITHER THE PARENT OR THE PUBLIC EDUCATION AGENCY MAY REQUEST A HEARING. THIS METHOD OF RESOLVING DISAGREEMENT IS USUALLY SOUGHT AFTER FORMAL COMPLAINT PROCESSES AND MEDIATIONS HAVE FAILED TO RESOLVE DISPUTES. A LIST OF TRAINED HEARING OFFICERS IS AVAILABLE FROM THE TENNESSEE DEPARTMENT OF EDUCATION, DIVISION OF SPECIAL EDUCATION, BY CONTACTING THE OFFICE OF LEGAL SERVICES. PARENTS REQUESTING A HEARING SHOULD SUBMIT A WRITTEN REQUEST TO THE SUPERINTENDENT OF THE LOCAL SCHOOL SYSTEM AND INCLUDE THE FOLLOWING INFORMATION:

- *The reason for the request
- *A suitable time for the hearing: morning, afternoon, evening
- *Two possible dates for the hearing
- * Whether the hearing will be closed or open to the public

The hearing must be held no less than fifteen (15) days and no more than thirty (30) days from the time you asked for the hearing, unless you agree otherwise, or the administrative law judge grants a continuance at the request of one of the parties.

REASONS FOR THE REQUEST:

1. Denied identification, evaluation or educational placement of persons who, because of disability need or are believed to need special instruction or related services
2. Placed in a setting which is not the least restrictive environment
3. Denied appropriate services due to inaccessibility of programs
4. Denied accommodations and/or modification to regular education program because of identified disability
5. Denied participation in extracurricular and nonacademic activities because of a disability

SCHOOL SYSTEMS RESPONSIBILITIES:

- * The school system will provide a location for the hearing.
- * The cost of the Administrative Law Judge and Court Reporter will be paid by the school system. The school system will provide the parents with a copy of the hearing transcript at no cost to the parent.
- * The school system must allow the child to remain in his/her present placement until after the hearing, unless the parents agree that a change in the placement would be best for the child.
- * The school system must inform the parents of any free or low-cost legal services or other relevant services available in the area.

BEFORE THE HEARING...

- * All exhibits to be presented at the hearing shall be exchanged between the school system and the parents at least five days prior to the hearing.
- * The school system must allow the parents to examine the child's records and make copies if requested.

DURING THE HEARING...

- * Parents and the school system may be represented by legal counsel or some other professional who may be knowledgeable about the child, or an advocate.
- * You may present and cross-examine witnesses who know about the child's disability.
- * The child may be present at the hearing.
- * After the Administrative Law Judge has heard the case, he/she will give a written decision.
- * The Administrative Law Judge is impartial, and is not an employee of any school system, but he/she will be well-trained and understand what the law requires for children with special needs.

AFTER THE HEARING...

- * The parents will receive a written record or tape recording of all that was said at the hearing.
- * A copy of the Administrative Law Judge's decision will be given to both the school system and the parents. The Judge must render a decision within 45 days after the school superintendent's receipt of the request for a hearing, unless the parents agree otherwise or the Judge has granted a continuance at the request of one of the parties.
- * The decision made by the Administrative Law Judge is final unless the parents or the school system appeals the decision to appropriate state or federal court.

Sample Notice of Nondiscrimination

The following sample notice of nondiscrimination meets the minimum requirements of the regulations enforced by OCR:

The (Name of recipient) does not discriminate on the basis of race, color, national origin, sex, or disability in its programs and activities. The following person has been designated to handle inquiries regarding the nondiscrimination policies:

Name and/or Title _____

Address _____

Telephone No. _____

Name and/or Title* _____

Address _____

Telephone No. _____

*For use when more than one official has been designated to coordinate civil rights compliance.

Methods of Notification:

In accordance with Section 504, notification may include:

1. posting of notice
2. publication in local newspapers
3. publication in newspapers and magazines operated by the LEA
4. publication in student publications, alumnae or alumni, newspapers or magazines
5. other written communications to students and employees.

DISABLED INDIVIDUALS POLICY STATEMENTSample 1:

It is the policy of the _____ School District that no otherwise qualified disabled person shall, solely by reason of his/her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity sponsored by this school district.

Inquiries regarding compliance with this policy should be directed to _____ (position*)
of the _____ School District, _____ (address) _____ or to
the Office for Civil Rights, U.S. Department of Education, Washington, D.C.

Sample 2:

It is the policy of the _____ School District not to discriminate against any otherwise qualified disabled person, solely by reason of his/her disability, in admission or access to, or treatment of employment in, any program or activity sponsored by this school district.

Inquiries regarding compliance with this policy should be directed to _____ (position)*
of the _____ School District, _____ (address) _____ or to
the Office for Civil Rights, U.S. Department of Education, Washington, D.C.

* Generally this should be the identified coordinator for Section 504 or the Americans with Disabilities Act.

Sample 3:**POLICY NOTIFICATION STATEMENT
(General Nondiscrimination Policy)**

It is the policy of the _____ School System not to discriminate on the basis of race, color, religion, sex, national origin, age, or disability in its educational programs or employment policies as required by Titles VI and VII of the Civil Rights Act of 1964, the Equal Pay Act of 1973, Title IX (1972 Educational Amendments), Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act.

Inquiries regarding compliance with Title IX, Section 504 or the Americans with Disabilities Act should be directed to _____ (position)** of the _____
School District, _____ (address) _____ or to the Office for Civil Rights, U.S.
Department of Education, Washington, D.C.

**Generally this should be the identified coordinator for the applicable federal law.

A-6

MEMORANDUM

DATE:

TO: Physicians, Child Care Centers, Community Agencies, Nursery Schools, Local Newspapers, and Radio Stations

FROM: _____, Section 504 Coordinator

RE: Identification and Location of Children With Disabilities

The _____ School System provides special education and related services, and special accommodations to children who are disabled. Under state and federal laws, public schools are required to provide a free, appropriate, public education to all children who are disabled between the ages of three and twenty-two, and may not, on the basis of disability, discriminate against these children.

This memorandum is part of an effort to locate and serve those children who may need special education and related services, and/or special accommodations. If you know of a child, three to age twenty-two, who may qualify for, and is not now receiving available services, please call or write:

Any help you can provide by publicizing and disseminating this important information will be greatly appreciated.

THANK YOU!

Annual Notice to Parents

In compliance with state and federal law, the _____ school district will provide to each protected student with a disability without discrimination or cost to the student or family, those related aids, services or accommodations which are needed to provide equal opportunity to participate in and obtain the benefits of the school program and extracurricular activities to the maximum extent appropriate to the student's abilities. In order to qualify as a protected student with a disability, the child must be of school age with a physical or mental disability, which substantially limits or prohibits participation in or access to an aspect of the school program.

These services and protections for "protected students who are disabled" are distinct from those applicable to all eligible or exceptional students enrolled (or seeking enrollment) in special education programs.

For further information on the evaluation procedures and provision of services to protected handicapped students, contact _____ at _____.

**EDUCATION OF STUDENTS IN ACCORDANCE WITH
SECTION 504 OF THE REHABILITATION ACT OF 1973**

PARENTAL RIGHTS

Pursuant to Section 504 of the Rehabilitation Act of 1973, disabled children and their parents or guardians are entitled to procedural safeguards with respect to actions taken by the _____ County School System regarding the identification, evaluation, or educational placement of students who are identified under this statute. In this regard, the following rights are afforded:

1. Notice of any action taken with regard to identification, evaluation, or educational placement of a disabled student;
2. An opportunity to examine relevant records;
3. An impartial hearing with the opportunity for participation by the disabled student's parents or guardians and representation by counsel; and
4. A review procedure.

If you would like further explanation of these rights, please contact _____,
Section 504 Coordinator, at _____.
Telephone Number

Section 504 Parental Rights were given by _____
Name and Title

on _____ for _____, _____ at
Date Student Date of Birth

Name of School

Original: Section 504 File (Central Office)
Yellow: Section 504 File (School)
Blue: 504 Designee
Pink: Parent or Guardian

Section 504 Informational Notice

Section 504 is an Act, which prohibits discrimination against persons with a disability in any program receiving federal financial assistance. The Act defines a person with a disability as anyone who:

- *Has a mental or physical impairment which substantially limits one or more major life activity (major life activities include activities such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working);*
- *Has a record of such impairment;*
- *Is regarded as having such an impairment.*

In order to fulfill its obligation under Section 504, the _____ school district recognizes a responsibility to avoid discrimination in policies and practices regarding its personnel and students. No discrimination against any person with a disability will knowingly be permitted in any of the programs and practices in the school system.

The school district has specific responsibilities under the Act, which include the responsibility to identify, evaluate, and if the child is determined to be eligible under Section 504, to afford access to appropriate educational services.

If the parent or guardian disagrees with the determination made by the professional staff of the school district, he/she has a right to a hearing with an impartial hearing officer.

The Family Educational Rights and Privacy Act (FERPA) also specifies rights related to educational records. This Act gives the parent or guardian the right to:

- *Inspect and review his/her child's educational records;*
- *Make copies of these records;*
- *Receive a list of all individuals having access to those records;*
- *Ask for an explanation of any item in the records;*
- *Ask for an amendment to any report on the grounds that it is inaccurate, misleading, or violates the child's rights'*
- *A hearing on the issue if the school refuses to make the amendment.*

If there are questions, please feel free to contact _____,
Section 504 Compliance Coordinator.

Phone _____

REFERRAL FOR SECTION 504

Name of Student _____ **Birth Date** _____

School _____ **Grade** _____

Person Initiating Referral _____ **Position** _____ **Date** _____

Reason for Referral: _____

Attendance: Days Present _____ **Days Absent** _____

Current Grades:

<i>Subject</i>	<i>Grade</i>	<i>Subject</i>	<i>Grade</i>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Testing Data: Attach a copy of the student's most recent achievement/aptitude test, TCAP (if appropriate), and classroom subject matter test results.

Academic Characteristics: Estimate the student's grade level.

_____ Oral Reading	_____ Spelling
_____ Reading Comprehensive	_____ Math Calculation
_____ Basic Reading Skills	_____ Math Reasoning
_____ Written Expression	_____ Writes Legibly

Comments:

Notice of Section 504 Committee Meeting

Name _____ Birthdate _____

School _____ Teacher _____ Grade _____

This Section 504 Committee will be meeting to discuss referral and evaluation information. If it is determined the student has a disability, the student's educational needs will be discussed and any applicable programs or modifications will be considered.

If you wish to have further information or have any questions, please contact:

504 Contact Person _____

Telephone Number _____

Date Sent _____

Original: Section 504 File (Central Office)
Yellow: Section 504 File (School)
Blue: 504 Designee
Pink: Parent or Guardian

ANNUAL REVIEW NOTICE

Date: _____

Student's Last Name_____
First Name_____
ID Number_____
School

Dear Parents,

Your child has been receiving services under Section 504 of the Rehabilitation Act of 1973. The 504 Review Committee will convene to consider current data as they reevaluate the educational services your child is now receiving. In order to continue to receive 504 services, you will need to provide the following current documentation:

The meeting will be held:

Date _____ Time: _____ Place _____

Should you have questions, please feel free to contact the school principal at the number listed below.

Sincerely,

Section 504 Designee

Telephone: _____

Original: Section 504 File (Central Office)

Yellow: Section 504 File (School)

Blue: 504 Designee

Pink: Parent or Guardian

STUDENT SERVICES AGREEMENT

Section 504

Academic Year: From _____ To _____

STUDENT NAME: _____ BIRTH DATE: ____/____/____
month/ day/ year

SCHOOL: _____ GRADE: _____

PARENTS: _____ HOME
Last First PHONE: _____

BUSINESS: _____

ADDRESS: _____
Street City State Zip

A. REFERRAL

DESCRIBE THE NATURE OF THE CONCERN, THE EDUCATIONAL IMPLICATIONS, AND ADDITIONAL INFORMATION. Relate information from observations, progress reports, and other data provided by teachers and other service providers.

DESCRIBE THE BASIS FOR THE DETERMINATION OF A DISABILITY (IF ANY). *Discuss the severity of the problem and the major life activity or activities affected.

B. ELIGIBILITY

- 1) _____ has been identified as meeting Section 504 eligibility
as _____. Reports supporting this determination were completed by:
disability

NAME	TITLE	DATE OF REPORT

(SEE ATTACHED REPORTS)

- 2) Does the student have a physical or mental impairment, which substantially limits one or more major life activities? Yes _____ No _____

- 3) Nature of impairment: _____

C. CLASSROOM SCHEDULE (List all classes/teachers)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

D. MODIFICATIONS

_____ no modification	_____ alternative materials
_____ peer tutoring	_____ cooperative learning
_____ oral testing	_____ grading (explain) _____
_____ abbreviated assignments	_____ other (explain) _____

E. The following strategies will be employed to meet the individual needs of the student:

Comments:

Person responsible for implementation: _____

F. TEAM MEMBERS:

Signature	Title	Date	Yes	No
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Copy to Section 504 Coordinator

G. _____ SECTION 504 PARENTAL RIGHTS WERE GIVEN AND EXPLAINED TO THE PARENTS OR GUARDIANS.

H. REEVALUATION DATE: _____

Comprehensive Reevaluations must be conducted at least every three years after the initial assessment.

Original: Section 504 File (Central Office)
Yellow: Section 504 File (School)
Blue: 504 Designee
Pink: Parent or Guardian

ALTERNATIVE LEARNING PLAN - ADDENDUM

Section 504
Reasonable Modifications
for

(Student's Name)

- _____ Mark student's correct and acceptable work, not his mistakes.
- _____ Examinations and quizzes should be given orally.
- _____ Reading assignments should be presented on cassette tapes.
- _____ Make arrangements for homework assignments to reach home with clear, concise directions.
- _____ Reversals and transpositions of letters and numbers should not be marked wrong. Instead, reversals or transpositions should be pointed out for correction.
- _____ Recognize and give credit for student's oral participation in class.
- _____ Provide extra test time.
- _____ Student should be allowed to tape classroom lectures or discussions.
- _____ Student should be allowed to copy another student's class notes.
- _____ Student should be provided a carbon copy of another student's class notes.
- _____ Utilization of peer tutoring.
- _____ Utilization of cross-age tutoring.
- _____ Avoid placing student under pressure of time or competition.
- _____ Accept homework papers typed by the student or dictated by him and recorded by someone else, if need be.
- _____ Do not return handwritten work to be copied over, paper is often not improved and student's frustration is added to.
- _____ Quietly repeat directions to him after they have been given to the class; then have him repeat and explain directions to you.
- _____ Let the student dictate themes or answers to questions on a cassette tape.

_____ Accompany oral directions with written directions for child to refer to (on blackboard or paper)

_____ Do not require lengthy outside reading assignments.

_____ Student should be permitted to use cursive writing.

_____ Other:

Comments:

xc Parent
Section 504 Coordinator
Principal
Teacher
Educational Record

Receipt for Rights Booklet*

Name of Student _____

Date of Birth _____ School _____

This is to verify that I have received a copy of Section 504 *Parent and Student Rights in Identification, Evaluation and Placement* which informs me of my rights throughout the child-centered educational process. These rights have been explained to me by:

_____	_____
Name	Position

on _____
Date

I understand that my rights include the right to receive:

- (1) this and all other written notices in the language I understand (primary language or, if needed, a translation of such orally, in sign language, or Braille as appropriate), and
- (2) answers from school personnel to additional questions I may have.

My signature below indicates that I received the booklet and understand its contents.

Signature of Parent, Guardian, or Adult Student

Date Signed

**PARENT/STUDENT RIGHTS IN IDENTIFICATION,
EVALUATION AND PLACEMENT**

Please Keep This Explanation for Future Reference
(Section 504 of the Rehabilitation Act of 1973)

The following is a description of the rights granted by federal law to students with disabilities. * The intent of the law is to keep you fully informed concerning decisions about your child and to inform you of your rights if you disagree with any of these decisions.

You have the right to:

1. Have your child take part in, and receive benefits from public education programs without discrimination because of his/her disability;
2. Have the school district advise you of your rights under federal law;
3. Receive notice with respect to identification, evaluation, or placement of your child;
4. Have your child receive a free appropriate public education. This includes the right to be educated with non-disabled students to the maximum extent appropriate. It also includes the right to have the school district make reasonable accommodations to allow your child an equal opportunity to participate in school and school-related activities;
5. Have your child educated in facilities and receive services comparable to those provided non-disabled students;
6. Have your child receive special education and related services if he/she is found to be eligible under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act;
7. Have evaluation, education, and placement decisions made based upon a variety of information sources, and by persons who know the student, the evaluation data, and placement options;
8. Have transportation provided to and from an alternative placement setting at no greater cost to you than would be incurred if the student were placed in a program operated by the district;
9. Have your child be given an equal opportunity to participate in nonacademic and extracurricular activities offered by the district;
10. Examine all relevant records relating to decisions regarding your child's identification, evaluation, education program, and placement;
11. Obtain copies of education records at a reasonable cost unless the fee would effectively deny you access to the records;

*(29 U.S.C. 706(7), §794; 34 C.F.R. Part 104, 20 U.S.C. §1232g; 34 C.F.R. Part 99)

12. A response from the school district to reasonable requests for explanations and interpretations of your child's records;
13. Request amendment of your child's educational records if there is reasonable cause to believe that they are inaccurate, misleading or otherwise in violation of the privacy rights of your child. If the school district refuses this request for amendment, it shall notify you within a reasonable time, and advise you of the right to a hearing;
14. File a local grievance;
15. Request mediation or an impartial hearing related to decisions or action regarding your child's identification, evaluation, educational program or placement. You and the student may take part in the hearing and have an attorney represent you. Written hearing requests must be submitted to the superintendent of the local school system and include the following information:
 - The reason for the request
 - A suitable time for the hearing: morning, afternoon, evening
 - Two possible dates for the hearing
 - Whether the hearing will be closed or open to the public

The hearing must be held no less than fifteen (15) days and no more than thirty (30) days from the time you asked for the hearing, unless you agree otherwise, or the administrative law judge grants a continuance at the request of one of the parties.

REASONS FOR THE REQUEST:

1. Denied identification, evaluation or educational placement of persons who, because of a disability, need or are believed to need special instruction or related services
2. Placed in a setting which is not the least restrictive environment
3. Denied appropriate services due to inaccessibility of programs
4. Denied modifications to regular education program because of identified disability
5. Denied participation in extracurricular and nonacademic activities because of a disability
6. Ask for payment of reasonable attorney fees if you are successful on your claim

The person in this district who is responsible for assuring that the district complies with Section 504 is

Telephone number _____

**SECTION 504
RELEASE OF INFORMATION FORM**

For the purpose of providing the most appropriate instruction and assistance in school, I do hereby give permission for a mutual exchange of psychoeducational evaluation, psychosocial evaluations, and medical evaluations concerning:

NAME OF STUDENT: _____ BIRTHDATE: _____

SCHOOL WHERE ENROLLED: _____ GRADE: _____

Between the _____ and the following:

(Hospitals, Clinic, Physician, Instruction, Association of School)

(Address of above)

(City, State and Zip)

Telephone: _____ Other: _____

Date Signed: _____

_____ Release all information

_____ Release the checked information

- _____ 1. General identifying data (Name, Address, Birthdate, Grade Level Completed, Grades, Class Standing, Attendance Record)
- _____ 2. Standardized Achievement and Aptitude Test Scores
- _____ 3. Personality and Interest Scores
- _____ 4. Teacher Ratings
- _____ 5. Record of Extra-Curricular Activities
- _____ 6. Individualized Education Programs
- _____ 7. Psychological Reports
- _____ 9. Medical Reports
- _____ 10. Psychiatric Reports
- _____ 11. Other (Specify)

Please Return to: _____

xc: Parent
 Principal

Above Named Institution
Education Record

LETTER TO PHYSICIAN REGARDING MEDICAL CONCERNS

(Date)

Dear Dr. _____:

A referral has been initialed for _____ (student's name) _____, _____ (date of birth) of
_____ (address) _____ under Section 504 of the Rehabilitation Act of 1973. The reason(s) for
the referral is (are)

[type reason(s) here]

Since the questions presented are relative to medical concerns and it appears that these concerns are affecting a 'major life activity' (i.e., education), we would appreciate your input. Please complete the attached questionnaire. A release of information has been signed by the parent/guardian and is attached for your convenience.

If you have any questions regarding this request, please do not hesitate to contact me.

Thank you in advance for your assistance.

Sincerely,

(Name and Title)

xc: Parent
 Educational Record

PHYSICIAN QUESTIONNAIRE FOR MEDICAL CONCERNS

STUDENT: _____ DATE OF BIRTH: _____

ADDRESS: _____ GRADE: _____

PARENT: _____ PHONE: _____

- 1 Detail available medical background, including a written diagnostic statement and copies of any/all reports.

2. In your opinion, how do these difficulties “substantially limit” this student’s ability to receive and benefit from learning?

3. Recommendations for consideration at an upcoming conference.

Please attach any reports pertinent to the medical/educational needs of this child.

Please forward this copy to _____ (name) _____ by _____ (date) _____.

Thank you.

xc: Principal
Parents
Educational Record

**Notice of Parent and Student Rights
under Section 504, the Rehabilitation Act of 1973**

The Rehabilitation Act of 1973, commonly referred to as Section 504, is a nondiscrimination statute enacted by the United States Congress. The purpose of the Act is to prohibit discrimination and to assure that disabled students have educational opportunities and benefits equal to those provided to nondisabled students.

An eligible student under Section 504 is a student who (a) has, (b) has a record of having, or (c) is regarded as having, a physical or mental impairment which substantially limits a major life activity such as learning, self-care, walking, seeing, hearing, speaking, breathing, working and performing manual tasks.

DUAL ELIGIBILITY: Many students will be eligible for educational services under both Section 504 and Individuals with Disabilities Education Act (IDEA). Students who are eligible under the IDEA have many specific rights that are not available to students who are eligible solely under Section 504. A *Rights of Children with Disabilities and Parent Responsibilities* brochure, prepared by the Division of Special Education, Tennessee Department of Education, is available through the school district's Special Education Department and sets out the rights assured by IDEA. It is the purpose of this Notice form to set out the rights assured by Section 504 to those disabled students who do not qualify under IDEA.

The enabling regulations for Section 504 as set out in 34 CFR Part 104 provide parents and/or students with the following rights:

1. You have a right to be informed by the school district of your rights under Section 504. (The purpose of this Notice form is to advise you of those rights.) 34 CFR 104.32.
2. Your child has the right to an appropriate education designed to meet his/her individual educational needs as adequately as the needs of nondisabled students are met. 34 CFR 104.33.
3. Your child has the right to free educational services except for those fees that are imposed on nondisabled students or their parents. Insurers and similar third parties are not relieved from an otherwise valid obligation to provide or pay for services provided to a disabled student. 34 CFR 104.33.
4. Your child has a right to placement in the least restrictive environment. 34 CFR 104.34.
5. Your child has a right to facilities, services, and activities that are comparable to those provided for disabled students. 34 CFR 104.34.
6. Your child has a right to an evaluation prior to an initial Section 504 placement and any subsequent change in placement. 34 CFR 104.35.
7. Testing and other evaluation procedures must conform with the requirement of 34 CFR 104.35 as to validation, administration, areas of evaluation, etc. The district shall consider information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, adaptive behavior, physical or medical reports, student

grades, progress reports, parent observations, anecdotal reports, and TCAP or TPT scores. 34 CFR 104.35.

8. Placement decisions must be made by a group of persons (i.e., Section 504 Committee), including persons knowledgeable about your child, the meaning of the evaluation data, the placement options, and the legal requirements for least restrictive environment and comparable facilities. 34 CFR 104.35.
9. If eligible under Section 504, your child has a right to periodic reevaluations, generally every three years. 34 CFR 104.35.
10. You have the right to notice prior to any action by the district in regard to the identification, evaluation, or placement of your child. 34 CFR 104.36.
11. You have the right to examine relevant records. 34 CFR 104.36.
12. You have the right to an impartial hearing with respect to the district's actions regarding your child's identification, evaluation, or educational placement, with opportunity for parental participation in the hearing and representation by an attorney. 34 CFR 104.36.
13. If you wish to challenge the actions of the district's Section 504 Committee in regard to your child's identification, evaluation, or educational placement, you should file a written Notice of Appeal with the district's Section 504 Coordinator who may be reached at the Board of Education, within five work days from the time you receive written notice of the Section 504 Committee's action(s). In the event the complaint is not resolved through the Superintendent of the School System, the Board of Education shall meet and review the complaint and decide (1) that no hearing is warranted or (2) notify the complainant of the schedule of a hearing. You may bring legal counsel or an advisor to the hearing.
14. If you disagree with the decision of the impartial hearing officer, you have a right to a review of that decision by a court of competent jurisdiction. 34 CFR 104.36.
15. On Section 504 matters other than your child's identification, evaluation, and placement, you have a right to file a complaint with the district's Section 504 Coordinator (or designee), who will investigate the allegations to the extent warranted by the nature of the complaint in an effort to reach a prompt and equitable resolution.
16. You also have a right to file a complaint with the Office of Civil Rights. The address of the Regional Office, which covers Tennessee, is:
Office for Civil Rights
61 Forsythe Street, SW, Suite 19T70
Atlanta, GA 30303
(404-562-6350)

My signature indicates that I have received this Notice form, setting out the rights assured by Section 504 of the Rehabilitation Act of 1973.

Signature

Date